

pertinent to a specific project for the purpose of making audit, examinations, excerpts, and transcripts.

§ 64.17 Project termination and settlement procedures.

Project Termination and Settlement Procedures will be in accord with Bureau of Outdoor Recreation Manual, chapter 675.8.

§ 64.18 Retention and use.

Property acquired or developed by State and local governments with section 809(b) assistance will be available to the general public and retained for recreation/conservation use. The acquiring agency will cause to have placed in the legal title to the property a restriction which precludes its conversion to other than public recreation/conservation use without the consent of the Secretary of the Interior. The Secretary shall not permit conversion to any use that would preclude future reactivation of rail transportation on such right-of-way.

PART 65—NATIONAL HISTORIC LANDMARKS PROGRAM

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AUTHORITY: 16 U.S.C. 461 et seq.; 16 U.S.C. 470 et seq.

SOURCE: 48 FR 4655, Feb. 2, 1983, unless otherwise noted.

§ 65.1 Purpose and authority.

The purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the

United States. These regulations set forth the criteria for establishing national significance and the procedures used by the Department of the Interior for conducting the National Historic Landmarks Program.

(a) In the Historic Sites Act of 1935 (45 Stat. 666, 16 U.S.C. 461 *et seq.*) the Congress declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States and

(b) To implement the policy, the Act authorizes the Secretary of the Interior to perform the following duties and functions, among others:

(1) To make a survey of historic and archeological sites, buildings and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States;

(2) To make necessary investigations and researches in the United States relating to particular sites, buildings or objects to obtain true and accurate historical and archeological facts and information concerning the same; and

(3) To erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archeological significance.

(c) The National Park Service (NPS) administers the National Historic Landmarks Program on behalf of the Secretary.

§ 65.2 Effects of designation.

(a) The purpose of the National Historic Landmarks Program is to focus attention on properties of exceptional value to the nation as a whole rather than to a particular State or locality. The program recognizes and promotes the preservation efforts of Federal, State and local agencies, as well as of private organizations and individuals and encourages the owners of landmark properties to observe preservation precepts.

(b) Properties designated as National Historic Landmarks are listed in the National Register of Historic Places upon designation as National Historic Landmarks. Listing of private property on the National Register does not

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prohibit under Federal law or regulations any actions which may otherwise be taken by the property owner with respect to the property.

(c) Specific effects of designation are:

(1) The National Register was designed to be and is administered as a planning tool. Federal agencies undertaking a project having an effect on a listed or eligible property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to section 106 of the National Historic Preservation Act of 1966, as amended. The Advisory Council has adopted procedures concerning, *inter alia*, their commenting responsibility in 36 CFR part 800.

(2) Section 110(f) of the National Historic Preservation Act of 1966, as amended, requires that before approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council a reasonable opportunity to comment on the undertaking.

(3) Listing in the National Register makes property owners eligible to be considered for Federal grants-in-aid and loan guarantees (when implemented) for historic preservation.

(4) If a property is listed in the National Register, certain special Federal income tax provisions may apply to the owners of the property pursuant to section 2124 of the Tax Reform Act of 1976, the Economic Recovery Tax Act of 1981 and the Tax Treatment Extension Act of 1980.

(5) If a property contains surface coal resources and is listed in the National Register, certain provisions of the Surface Mining and Control Act of 1977 require consideration of a property's historic values in determining issuance of a surface coal mining permit.

(6) Section 8 of the National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1-5), directs the Secretary to prepare an annual report to Congress which identifies all National Historic Landmarks that exhibit known or anticipated damage or threats to the in-

tegrity of their resources. In addition, National Historic Landmarks may be studied by NPS for possible recommendation to Congress for inclusion in the National Park System.

(7) Section 9 of the Mining in the National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1980) directs the Secretary of the Interior to submit to the Advisory Council a report on any surface mining activity which the Secretary has determined may destroy a National Historic Landmark in whole or in part, and to request the advisory Council's advice on alternative measures to mitigate or abate such activity.

§ 65.3 Definitions.

As used in this rule:

(a) *Advisory Council* means the Advisory Council on Historic Preservation, established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*). Address: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005.

(b) *Chief elected local official* means the mayor, county judge or otherwise titled chief elected administrative official who is the elected head of the local political jurisdiction in which the property is located.

(c) *Advisory Board* means the National Park System Advisory Board which is a body of authorities in several fields of knowledge appointed by the Secretary under authority of the Historic Sites Act of 1935, as amended.

(d) *District* means a geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(e) *Endangered property* means a historic property which is or is about to be subjected to a major impact that will destroy or seriously damage the resources which make it eligible for National Historic Landmark designation.

(f) *Federal Preservation Officer* means the official designated by the head of